

**ASSEMBLY BILL**

**No. 1367**

**Introduced by Assembly Member Laird**

February 21, 2003

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An act to add Section 25150.9 to the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1367, as introduced, Laird. Hazardous waste: regulation.

Existing law establishes various standards for management and control of hazardous waste. Existing law authorizes the Department of Toxic Substances Control to adopt standards and regulations for the management of hazardous waste, as specified.

This bill would authorize the department to adopt alternative hazardous waste management standards by regulation, for hazardous waste management activities that meet specified criteria. The bill would require the department to make specified findings and analysis, and to make that analysis available to the public, before adopting those regulations.

Since a violation of the regulations authorized by this bill would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 25150.9 is added to the Health and Safety Code, to read:

25150.9. (a) (1) Subject to the requirements of subdivision (b), the department may, by regulation, establish hazardous waste management standards as an alternative to one or more of the standards specified in this chapter, for specified activities that do not involve the management of any hazardous waste other than the hazardous wastes identified in paragraph (4).

(2) The rulemaking file for any regulation adopted pursuant to paragraph (1) shall specify the standard or standards of this chapter for which the regulation provides alternative standards. Any person complying with the alternative standards established by the regulation is deemed to be in compliance with the standard or standards of this chapter for which the regulation is specified as being an alternative.

(3) During the development of a regulation proposed to be adopted pursuant to this section that affects a waste that is proposed to be, or is currently, disposed of in a solid waste facility, the department shall consult with the California Integrated Waste Management Board and the State Water Resources Control Board.

(4) This section applies only to the following hazardous wastes:

(A) Hazardous waste that substantially meets the criteria for universal wastes listed in Section 273.81 of Title 40 of the Code of Federal Regulations, and that is regulated as universal waste in the regulations adopted pursuant to this subdivision.

(B) Any other hazardous waste that meets one or more of the following criteria:

(i) The hazardous waste is generated by numerous households.

(ii) The hazardous waste is generated at numerous locations where prolonged accumulation of the hazardous waste, under the requirements of this chapter and the regulations adopted by the department governing accumulation and storage of hazardous waste, presents greater than normal public health or environmental risks. This type of location includes, but is not limited to, public elementary and secondary schools, day care centers, nonhospital facilities that provide day care or residential care for the elderly or

1 the physically or mentally impaired, and small government  
2 buildings frequented by numerous members of the public.

3 (iii) The hazardous waste is generated by a wide variety of  
4 types of establishments, including, but not limited to, households,  
5 retail and commercial businesses, office complexes, small  
6 businesses, government organizations, and large industrial  
7 facilities.

8 (iv) The hazardous waste is a material that, due to its hazardous  
9 characteristics, is being or has been phased out of common use  
10 because the use of the material presents unacceptable risks to  
11 public health or safety or the environment. This type of material  
12 includes, but is not limited to, mercury-containing products and  
13 materials coated with lead-based paint.

14 (v) Due to the unique characteristics of the hazardous waste or  
15 the circumstances surrounding its generation or subsequent  
16 management, one or more requirements of this chapter are  
17 determined by the department to be inappropriate, unsafe, or  
18 unworkable for the management of that hazardous waste.

19 (b) Before adopting a regulation pursuant to subdivision (a),  
20 the department shall make all of the following findings, prepare an  
21 analysis to support those findings, make the analysis available to  
22 the public, and notify the public of the availability of the analysis  
23 in the notice of proposed action issued pursuant to Section 11346.4  
24 of the Government Code.

25 (1) One of the following applies:

26 (A) The hazardous waste is solely a non-RCRA hazardous  
27 waste or the hazardous waste or its management is exempt from,  
28 or is not otherwise regulated pursuant to, the federal act.

29 (B) The standard or standards in this chapter for which  
30 alternative standards would be established is or are not a  
31 requirement of the federal act, or the regulations adopted to  
32 implement the federal act.

33 (C) The hazardous waste meets the criteria in subparagraph (A)  
34 of paragraph (4) of subdivision (a).

35 (2) There are special characteristics or circumstances  
36 associated with the hazardous waste, the generating or other  
37 management activity, or the universe of persons that generate or  
38 manage the hazardous waste that make the alternative  
39 management standards to be adopted by regulation more

1 appropriate than the corresponding standard or standards  
2 contained in this chapter.

3 (3) One of the following applies:

4 (A) The hazardous waste management activity, to which the  
5 alternative standards would apply, is not significant as a potential  
6 hazard to human health or safety or to the environment, when  
7 conducted in accordance with the conditions, limitations, and  
8 other requirements specified in the regulations adopted pursuant  
9 to subdivision (a).

10 (B) The standard or standards in this chapter for which  
11 alternative standards would be established are not significant in  
12 either of the following:

13 (i) Preventing or mitigating any potential hazard to human  
14 health or safety or to the environment posed by the activity subject  
15 to the alternative standards.

16 (ii) Ensuring that the activity is conducted in compliance with  
17 applicable requirements of this chapter and the regulations  
18 adopted pursuant to this chapter.

19 (C) The conditions, limitations, and other requirements  
20 specified in the regulations adopted pursuant to subdivision (a)  
21 accomplish the same purpose as the corresponding standard or  
22 standards in this chapter, but at less cost or greater administrative  
23 convenience and without increasing potential risks to human  
24 health or safety or the environment.

25 (4) Compliance with the alternative management standards, in  
26 lieu of the corresponding standard or standards in this chapter, is  
27 not likely to result in any of the following:

28 (A) A significant reduced ability to track the hazardous waste  
29 or to ensure that the hazardous waste is properly disposed of.

30 (B) A significant increased potential for any of the following  
31 to occur:

32 (i) Release of hazardous waste or its constituents to the  
33 environment.

34 (ii) Unauthorized persons or animals to come in contact with,  
35 or otherwise be exposed to, hazardous waste or its constituents.

36 (iii) Mismanagement of the hazardous waste.

37 SEC. 2. No reimbursement is required by this act pursuant to  
38 Section 6 of Article XIII B of the California Constitution because  
39 the only costs that may be incurred by a local agency or school  
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty  
2 for a crime or infraction, within the meaning of Section 17556 of  
3 the Government Code, or changes the definition of a crime within  
4 the meaning of Section 6 of Article XIII B of the California  
5 Constitution.

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